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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FEB 06 2002

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 5180

DATE COMPLAINT FILED: March 5, 2001

DATE OF NOTIFICATION: March 12, 2001

DATE ACTIVATED: November 13, 2001

STAFF MEMBERS: Danita C. Lee

Delbert K. Rigsby

STATUTE OF LIMITATIONS: September 1, 2005

COMPLAINANT:

Ron Friedman
Friends of Weiner

RESPONDENTS:

Dear 2000, Inc., and Abraham Roth, as Treasurer

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 431(5)
2 U.S.C. § 432(a)
2 U.S.C. § 432(c)(5)
2 U.S.C. § 432 (e)(1)
2 U.S.C. § 434(b)(4)(A)
2 U.S.C. § 434(b)(5)(A)
11 C.F.R. § 102.7(c)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter arose from a complaint filed with the Federal Election Commission ("Commission") by Ron Friedman, Chairman of Friends of Weiner, ("Complainant"). The complaint alleges that Dear 2000, Inc., ("Committee") failed to disclose campaign expenditures and thus, violated 2 U.S.C. §§ 434(b)(4)(A) and 434(b)(5)(A).

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 **A. Law**

3 The Federal Election Campaign Act of 1971, as amended, (the "Act") defines a "political
4 committee" to include the principal campaign committee designated by and authorized by a
5 candidate pursuant to 2 U.S.C. § 432(e)(1). 2 U.S.C. § 431(5). Every political committee shall
6 have a treasurer. 2 U.S.C. § 432(a). No expenditure shall be made for or on behalf of a political
7 committee without the authorization of its treasurer or an agent authorized orally or in writing by
8 the treasurer. *Id.*; see 11 C.F.R. § 102.7(c). The Act requires the treasurer of a political
9 committee to keep an account of the name and address of every person to whom any
10 disbursement is made, the date, amount, and purpose of the disbursement including a receipt,
11 invoice, or cancelled check for each disbursement in excess of \$200. 2 U.S.C. § 432(c)(5). The
12 Act requires the treasurer of a political committee to file reports of the total expenditures made to
13 meet candidate or committee operating expenses and to itemize an expenditure made to meet a
14 candidate or committee operating by setting forth the name, address, date, amount and purpose
15 when the expenditure aggregates or has a value in excess of \$200. 2 U.S.C. §§ 434(b)(4)(A);
16 434(b)(5)(A).

17 **B. Analysis**

18 The Complainant alleges that on at least six occasions, the Committee placed full-page
19 advertisements in the *Jewish Press* that carried the disclosure, "Paid for by Dear 2000, Inc."¹
20 The advertisements submitted with the complaint show publication dates of September 1, 2000,
21 September 8, 2000 (two ads), October 27, 2000 and November 3, 2000. The Complainant asserts

¹ The Complainant submitted photocopies of five purported advertisements along with a *Jewish Press* rate card showing advertising rates and terms. According to the rate card, full page advertisements cost \$6,600.

1 that the Committee failed to report campaign expenditures associated with these advertisements
2 and requests that the Commission investigate the matter. In response to the complaint, the
3 Committee's Treasurer states "the placement of the advertisements were unknown to me until I
4 learned of them from the complaint and were unauthorized. Thus, the costs thereof did not
5 appear in our expenditure disclosure form."

6 The Committee filed a Statement of Organization on December 21, 1999, designating
7 Dear 2000, Inc. as the principal campaign committee of Noach Dear. The Statement of
8 Organization lists Abraham Roth as Treasurer and Heshy Katz as Assistant Treasurer. The
9 *Jewish Press* advertisements at issue were published after Mr. Roth was designated as treasurer,
10 and contain the statement "Paid for by Dear 2000, Inc., Abe Roth, Treasurer."² The reports of
11 receipts and disbursements filed by the Committee with the Commission covering January 1,
12 2000 through June 30, 2001 do not reveal payments to the *Jewish Press*.

13 The Committee asserts that it did not know about the placement of the advertisements
14 and that the advertisements were unauthorized. However, in light of the publication of the
15 advertisements and the disclaimer naming the Committee and Mr. Roth, additional inquiry is
16 merited. The Treasurer's ability to designate agents authorized to make expenditures on behalf
17 of the Committee suggests that perhaps an agent of the Committee placed the advertisements.
18 For this reason, without additional evidence to support its denial, it appears that the Committee
19 may have incurred the expense and failed to comply with the Act's disclosure requirements.³
20 Therefore, the Office of General Counsel recommends that the Commission find reason to

² Two of the advertisements submitted with the complaint do not contain this or similar statements.

³ Abraham Roth did not indicate that he protested to the *Jewish Press* regarding the placement of the purportedly unauthorized advertisements.

1 believe that Dear 2000, Inc., and Abraham Roth, as Treasurer, violated 2 U.S.C. §§ 434(b)(4)(A)
2 and 434(b)(5)(A) and by failing to report all campaign expenditures.

3 **III. DISCUSSION OF CONCILIATION**

4 In order to more fully assess the credibility of the Committee's response regarding the
5 unauthorized nature of the *Jewish Press* advertisements, the Office of General Counsel
6 recommends that that the Commission authorize an investigation prior to entering into pre-
7 probable cause conciliation with the Committee.

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11
12 Therefore, this Office
13 requests the Commission to authorize a subpoena and order to Dear 2000, Inc. and a subpoena
14 and order to the *Jewish Press*. Attachments 1 and 2.

15

IV. RECOMMENDATIONS

1. Find reason to believe that Dear 2000, Inc., and Abraham Roth, as Treasurer, violated 2 U.S.C. §§ 434(b)(4)(A) and 434(b)(5)(A);
2. Authorize Subpoena and Order to Dear 2000, Inc., and Abraham Roth, as Treasurer;
3. Authorize Subpoena and Order to the *Jewish Press*;
4. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

2/5/02
Date

BY:


Gregory R. Baker
Acting Associate General Counsel

Attachments

1. Subpoena and Order to Dear 2000, Inc.
2. Subpoena and Order to the *Jewish Press*
3. Factual and Legal Analysis

Staff Assigned: Peter G. Blumberg
Danita C. Lee
Delbert K. Rigsby